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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

SHEPARD, JUSTIN E

ART UNIT

PAPER NUMBER

2424

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/901,279	Applicant(s) FUJITA, KIMIKAZU	
	Examiner Justin E. Shepard	Art Unit 2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,9,11,14-24 and 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,9,11,14-24 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 2/2/09 have been fully considered but they are not persuasive.

Page 38, paragraph beginning with "Applicant would":

The 101 rejections are now withdrawn based on the applicant's amendments.

Page 39, paragraph beginning with "Applicant believes":

The applicant argues that the issue of the 112 rejections of claims 1,9, 12, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 24 are moot as the limitation argued is found in claim 29. The examiner can not find the limitation argued in claim 29, and therefore the 112 rejection stands.

Page 42, paragraph beginning with "As to":

The applicant argues that subject matter argued for 112 issues can be found in paragraph 51 of the applicant's specification. The examiner disagrees and invites the applicant to explain how this section supports the limitation without using the wordage found in the claims.

Page 43, paragraph beginning with "Script":

The applicant argues that the word "script" is known to have a specific meaning in this technical field. The examiner disagrees with this statement as the word script

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could be interpreted in a very strict sense as suggested by the applicant, or in a broad sense as suggested by the examiner. The examiner suggests that a script could be any piece of data (or metadata) that is used by a machine to control the actions of that machine. In Eldering (column 10, lines 8-10 and 57-62), the system is taught that commercials can be transmitted to a receiver before the commercial is to be reproduced (column 10, lines 5-10), wherein program maps embedded in the signals transmitted to the receiver directs the receiver to select and store the particular commercials (column 10, lines 57-62) that are to be directed to the receiver (column 6, lines 40-44). This action performed by the program map is interpreted as performing and meeting the limitation of a "script."

Page 43, last 2 paragraphs and page 44, first paragraph:

These arguments refer to newly added limitations that will be addressed in this office action.

Page 44, second paragraph:

The applicant argues that subject matter argued for 112 issues can be found in paragraph 151 of the applicant's specification. The examiner disagrees and invites the applicant to explain how this section supports the limitation without using the wordage found in the claims.

Page 45, section (1):

The applicant again argues the term script, which has been responded to above.

Page 47, first paragraph:

The applicant argues that the invention caches a commercial message according to a script sent from the broadcasting apparatus to the receiving apparatus; and accordingly caching and display reproduction by the receiving apparatus are controlled by the broadcasting apparatus. The examiner would argue that this is exactly what Eldering teaches. Eldering teaches caching commercial messages (column 10, lines 5-10) according to a script sent from the broadcasting apparatus to the receiving apparatus (column 10, lines 57-62); and accordingly caching and display reproduction by the receiving apparatus are controlled by the broadcasting apparatus (column 10, lines 57-62; column 6, lines 40-44).

Page 49, paragraph beginning with "We have now":

The applicant argues that subject matter argued for 112 issues can be found in paragraphs 148-153 of the applicant's specification. The examiner disagrees and invites the applicant to explain how this section supports the limitation without using the wordage found in the claims.

In the next paragraph, the applicant specifically argues that 148 teaches this limitation. This section refers to transmitting data and not generating it as is found in the claim limitation.

Page 50, sections 1 and 2:

The applicant points out certain advantages that are contained in the claims. As far as the examiner can tell, the invention that the applicant is trying to explain in these sections relates to transmitting commercials to a receiver to be reproduced multiple times without having to be transmitted down from the broadcaster more than once. The claims at this point, due to the prosecution of the application, range from 2 to 3 or more pages. The examiner suggests that the applicant retool the claims to better communicate the invention so that they are not as large and convoluted as they are in their current form.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 9, 12, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation of “the preceding time period being longer than a time period that is necessary for transmitting a program data of the specific program **more than**

once during the part of the broadcasting bandwidth for the preceding time period allotted to the specific program," (emphasis added) is not found in the specification.

Claims 1, 15, and 21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation of "transmitting resultant third multiplexed data in the reproduction time period" is not found in the specification.

Claim 29 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation of "each script generated by the script generation unit **in a cycle different from a cycle of the specific program**" (emphasis added) is not found in the specification.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering in view of Swix.

Referring to claim 24, Eldering discloses a broadcasting method for reducing television receiver latencies in displaying an interactive content portion of broadcast television commercials, the method comprising the steps of:

assigning a television program to a first time slot and a commercial to a second time slot immediately after the first time slot (figure 5);

allocating a first portion of the available bandwidth of the first time slot to audiovisual content of the television program (column 10, lines 37-45);

allocating a second portion of the available bandwidth of the first time slot to a specific program having interactive content for a commercial (column 10, lines 37-45; column 6, lines 40-44); so that the second portion of the available bandwidth of the first time slot is narrower than the first portion of the available bandwidth of the first time slot, the first time slot being longer than a time period necessary for transmitting a program data of the specific program having interactive content for the commercial at least once during the second portion of the available bandwidth of the first time slot (column 7, lines 29-37);

allocating a first portion of the available bandwidth of the second time slot to the specific program (figure 5; column 10, lines 37-45);

allocating a second portion of the available bandwidth of the second time slot to audiovisual content of the commercial (figure 5; column 10, lines 37-45);

transmitting the audiovisual content of the television program during the first time slot (figure 5; column 10, lines 37-45));

repeatedly transmitting the specific program during the first time slot (column 10, lines 37-45);

transmitting the audiovisual content of the commercial during the second time slot (figure 5; column 7, lines 29-37; column 10, lines 37-45); and

repeatedly transmitting the specific program during the second time slot (figure 5),

transmitting a script for storing the specific program (column 6, lines 40-44),

transmitting a script for executing the specific program (column 7, lines 29-37 and 65-67), and

receiving and storing the specific program at the television program (column 6, lines 40-44).

Eldering does not disclose a method for transmitting the data in a carousel format.

In an analogous art, Swix teaches a method for transmitting the data in a carousel format (column 9, lines 32-44).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the carousel transmission taught by Swix to the method disclosed by Eldering. The motivation would have been that commercials are normally repeated during a single day of broadcasting, where a carousel format allows for a efficient way to transmit the data.

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2. Claims 1, 4, 9, 11, 12, 14-23 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering, U.S. Patent Number 6,615,039 in view of Suzuki in view of Swix in view of Allibhoy.

Referring to claim 1, Eldering discloses a broadcasting apparatus (column 2, lines 35-38; figure 2, parts 211 and 209) that broadcasts a specific program to which a reproduction time period between a starting time and a finishing time is specified (figure 7, box labeled "PROGRAMMING"; figure 9; Note: the time for inserting the advertisement listed in the "Insert Time" column indicates that the program from figure 7 must have a planned start and stop time), the reproduction being performed by a receiving apparatus to display the specific program in the reproduction time period (figure 2, part 209), the broadcasting apparatus comprising:

allotment unit allotting a broadcasting bandwidth for the reproduction time period to the specific program (column 9, line 67, column 10, lines 1-3) and allotting a part of the broadcasting bandwidth for a preceding time period immediately before the reproduction time period to the specific program and the other part of the broadcasting bandwidth to another program (column 10, lines 2-3, 8-10; figure 7, part AD1 and signals running from part 802 to 806); so that the part of the broadcasting bandwidth is narrower than the other part of the broadcasting bandwidth, the preceding time period being longer than a time period that is necessary for transmitting a program data of the specific program at least once during the part of the broadcasting bandwidth for the preceding time period allotted to the specific program (column 7, lines 29-37);

script generation unit generating, (a) when the receiving apparatus receives an event message for instructing storage, a script of instruction for the receiving apparatus to store program data of the specific program in a storage unit of the receiving apparatus (column 7, lines 28-30; column 10, lines 8-10 and 57-62),

an event message generation unit generating the event message for instructing storage and the even message for instructing reproduction (figure 3, part 301; column 5, lines 28-43; column 6, lines 40-44; column 10, lines 57-62; Note: as for the added limitation found in claim 29, each script generated by the script generation unit in a cycle different from a cycle different from a cycle of the specific program, as the commercials are transmitted before the programming, which is considered a different cycle (column 10, lines 8-10 and 57-62));

transmission unit transmitting a normal program that includes a video stream and an audio stream, and further in accordance with the result of allotment by the allotment unit, (a) repeatedly multiplex (figure 7) program data of the other program with the normal program and transmit resultant first multiplexed data prior to the preceding time period (column 10, lines 37-41; Note: sending the data whenever there is spare bandwidth is being interpreted as being equivalent to repeatedly sending data), and (b) repeatedly multiplex the program data of the specific program, the program data of the other program, and the script with the normal program and transmit resultant second multiplexed data in the preceding time period (column 10, lines 37-41); and

(c) repeatedly multiplex the program data of the specific program and the script with the normal program and transmit resultant third multiplexed data in the reproduction time period (figure 5);

and control unit controlling the transmission unit to repeatedly transmit event message for instructing storage in the preceding time period and to transmit the event message for instructing reproduction at the starting time (figure 3, part 301; column 5, lines 28-43 column 6, lines 40-44; column 10, lines 57-62),

wherein the specific program has the program data that relates to a commercial message which is inserted in the normal program (column 6, lines 40-44), and the reproduction time period of the specific program is the same as a broadcast time period of the commercial message (column 7, lines 41-46; Note: Eldering shows that a commercial could be broadcast at 1.5 Mbps, while the program itself would require 27-155 Mbps. If the commercial was 0.5 minutes, and the program was 29.5 minutes than the program would need to be broadcast at 88.5 Mbps (if the program and commercial were shown at the same resolution), which falls within the range of 27-155 Mbps and is interpreted as the commercial and the program being broadcast during the same time period).

Eldering does not disclose a system with script generating means for generating, (b) when receiving an event message for instructing reproduction, a script of instructing for the receiving apparatus to perform the reproduction to display the program data of the specific program in a case where the program data of the specific program has been stored in the storage unit; and

wherein each of the scripts being automatically stored when the receiving apparatus receives the script; and

wherein the data is transmitted in a carousel format.

In an analogous art, Suzuki teaches a system with script generating means for generating, (b) when receiving an event message for instructing reproduction, a script of instructing for the receiving apparatus to perform the reproduction to display the program data of the specific program in a case where the program data of the specific program has been stored in the storage unit (column 23, lines 22-25; Note: the examiner has explained his interpretation of a script in the responses above).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the reproduction controls from Suzuki in the broadcasting apparatus disclosed in Eldering. The motivation for doing this would have been to enable the cable network to control which programs were authorized to play on which subscriber's systems.

Eldering and Suzuki do not disclose a system wherein each of the scripts being automatically stored when the receiving apparatus receives the script; and

wherein the data is transmitted in a carousel format.

In an analogous art, Allibhoy teaches a system wherein each of the scripts being automatically stored when the receiving apparatus receives the script (figure 3, part 110; column 5, line 63 to column 6, line 19; Note: as every script received is processed by the receiver, this is interpreted as automatically storing the script as processing data requires that the data be stored, if only temporarily in a buffer or processor).

At the time of the invention, it would have been obvious for one of ordinary skill in the art to add the script storing taught by Allibhoy to the system disclosed by Eldering and Suzuki. The motivation would have been to allow for the distribution system to be simplified by broadcasting scripts to all the receivers, but only the receivers that were meant to receive the script would process it.

Eldering, Suzuki and Allibhoy do not disclose a system wherein the data is transmitted in a carousel format.

In an analogous art, Swix teaches a method for transmitting the data in a carousel format (column 9, lines 32-44).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the carousel transmission taught by Swix to the method disclosed by Eldering, Suzuki and Allibhoy. The motivation would have been that commercials are normally repeated during a single day of broadcasting, where a carousel format allows for a efficient way to transmit the data.

Claims 9, 12, 15-23 and 29 are rejected on the same grounds as claim 1.

Referring to claim 4, Eldering discloses an apparatus of Claim 1, further comprising: a storage unit for storing as the program data of the specific program (a) first contents data that makes up the specific program (figure 5, "AD1") and (b) second contents data that is different from the first contents data in part (figure 5, "AD2"), wherein the transmission unit transmits the first contents data in the preceding time

period and transmits the second contents data in the reproduction time period of the specific program (column 7, lines 29-34).

Referring to claim 11, Eldering discloses an apparatus of Claim 9, further comprising: storage unit storing as the program data of the first specific program (a) first contents data that makes up the first specific program (figure 5, "AD1") and (b) second contents data that is different from the first contents data in part (figure 5, "AD2"), wherein the transmission unit transmits the first contents data in a time period other than the first time period in the total time period, and transmits the second contents data in the first time period (column 7, lines 29-34).

Referring to claim 14, Eldering discloses an apparatus of Claim 12, further comprising: storage unit storing as the program data of the first specific program (a) first contents data that makes up the first specific program (figure 5, "AD1") and (b) second contents data that is different from the first contents data in part (figure 5, "AD2"), wherein the transmission unit transmits the first contents data in a time period preceding to the first time period in the total time period, and transmits the second contents data the first time period (column 7, lines 29-34).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher Kelley/
Supervisory Patent Examiner, Art
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JS